

Claimant alleges a sudden onset of pain on the morning of September 19, 1994. When claimant awoke she could not move her head or neck. Claimant alleged this problem stemmed from an incident on the previous Friday, September 16, 1994, suffered while claimant was lifting a tub of parts. Claimant alleged injury to her neck and upper back.

On September 19, 1994, when claimant contacted her foreman, Mr. Mike Gupro, she was asked whether the injury was related to her work. She advised Mr. Gupro she did not know what her problem was. When testifying regarding her failure to allege a work-related injury, claimant advised that she was in too much pain to think at that moment.

Claimant went to a chiropractor and returned to work with a slip taking her off work. When asked for more information, she returned to the chiropractor obtaining a second slip taking her off work. When providing these slips to the respondent, claimant failed to advise of the alleged work-related nature of the injury.

When providing information to the health care provider, claimant advised she had headaches and neck pain with an onset of Thursday and an indication that they had come on gradually. The medical records of the doctor also indicated claimant had a chronic condition of the neck and upper back. When inquiry was made by the doctor, claimant was unable to say what caused the neck and back pain.

Medical records indicate claimant had a history of migraine headaches, as well as neck and upper back pain stemming from stress and depression. These symptoms existed well before claimant's alleged date of injury.

In proceedings under the Workers Compensation Act, it is claimant's burden of proof to establish a claimant's right to an award of compensation by proving the various conditions on which the claimant's right depends by a preponderance of the credible evidence. See K.S.A. 44-501 and K.S.A 44-508(g); Box v. Cessna Aircraft Co., 236 Kan. 237, 689 P.2d 871 (1984).

The medical evidence in this matter does not support claimant's allegation of a work-related injury. The medical reports of claimant's chiropractor, Dr. Long, actually serve to contradict the claimant's contentions. This, coupled with claimant's failure to advise her supervisor of a work-related accident, convinces the Appeals Board that claimant has failed to prove by a preponderance of the credible evidence that her symptomatology stems from an accidental injury arising out of and in the course of her employment with respondent.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Nelsonna Potts Barnes, dated February 17, 1995, shall be and is hereby reversed and claimant is denied benefits against respondent for the injuries alleged.

IT IS SO ORDERED.

Dated this ____ day of June, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Dale V. Slape, Wichita, Kansas
David S. Wooding, Wichita, Kansas
Nelsonna Potts Barnes, Administrative Law Judge
George Gomez, Director